

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

<b>STEPHEN DALE BARBEE,</b>	§	
	§	
<b>Petitioner,</b>	§	
	§	
<b>vs.</b>	§	<b>No. 4:09-cv-074-Y</b>
	§	
<b>RICK THALER,</b>	§	
<b>Director,</b>	§	
<b>Texas Department of Criminal</b>	§	
<b>Justice, Correctional Institutions</b>	§	<b>(Death Penalty Case)</b>
<b>Division,</b>	§	
<b>Respondent.</b>	§	
	§	

**AMENDMENT TO MOTION TO HOLD PROCEEDINGS IN ABEYANCE TO ALLOW  
PETITIONER TO EXHAUST CLAIMS IN STATE COURT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Comes now Petitioner, Stephen Dale Barbee, through his counsel, and respectfully files this Amendment to his “Motion to Hold Proceedings in Abeyance To Allow Petitioner To Exhaust Claims In State Court.”

The last sentence on page 23, the “Certificate of Conference”, should read as follows: “Mr. Jones stated that his office would oppose this motion.”

DATED: October, 14, 2010.

/s/ A. Richard Ellis

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A. RICHARD ELLIS  
COUNSEL FOR PETITIONER

**CERTIFICATE OF SERVICE**

I, A. Richard Ellis, counsel of record for Petitioner, do hereby certify that on October 14, 2010, I electronically filed the above and foregoing pleading with the Clerk of the Court for the United States District Court for the Northern District of Texas, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorney of record who have consented to accept this Notice as service of this document by electronic means:

Mr. Thomas Jones  
Assistant Attorney General  
Postconviction Litigation Division  
Office of the Attorney General, State of Texas  
P.O. Box 12548, Capitol Station  
Austin, Texas

As specified in the district court rules, and at the direction of the Court's administrative assistant, the Court's hard copy of the Petition and Exhibits was also sent to the following on October 14, 2010:

Robert Smith, Esq.  
U. S. District Court, Northern District of Texas  
1100 Commerce Street, Room 1452  
Dallas, TX 75242

/s/ A. Richard Ellis

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A. RICHARD ELLIS  
COUNSEL FOR PETITIONER